

## Message Text

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ORIGIN L-02

INFO OCT-01 EA-10 ISO-00 SNM-02 JUSE-00 RSC-01 /016 R

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DRAFTED BY: L/M:CLBLAKESLEY

APPROVED BY: L/M:KEMALMBORG

S/NM: S. VANCE (INFO)

EA/J: D. BROWN

JUSTICE: M. SITVER

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O 232334Z JAN 75

FM SECSTATE WASHDC

TO AMEMBASSY TOKYO

UNCLAS STATE 016655

E.O. 11652:N/A

TAGS: CPRS, PFOR, SNAR, JA

SUBJECT: JUDICIAL ASSISTANCE--JUSTICE DEPT. DEPOSITION  
REQUEST

REF: TOKYO 951.

1. DEPT HAS TRANSMITTED REFTEL TO U.S. ATTORNEY'S OFFICE  
SAN FRANCISCO, AND ASST. U.S. ATTORNEY GIBBONS STATED THAT  
HE WOULD PRESENT TO JUDGE CONTI. U.S. ATTORNEY'S OFFICE  
REPORTS THAT JUDGE CONTI WILL NOT BE ABLE TO ISSUE ORDER  
LIMITING TIME FOR DEPOSITION, BECAUSE IT IS NOT POSSIBLE  
TO HAVE COUNSEL FOR BOTH SIDES ARGUE ISSUES BEFORE HIM.  
JUDGE IS AWARE OF PROBLEMS FACING EMB. AND JAPAN WITH  
REGARD TO THIS DEPOSITION.

2. DEPT UNDERSTANDS, AS WELL, THAT GOJ HAS BEEN VERY  
HELPFUL AND GRACIOUS IN THIS MATTER AND THAT GOJ HAS SOLE  
POWER CLOSE-OFF OR TO EXTEND DEPOSITION. NEVERTHELESS,  
BECAUSE OF GREAT IMPORT OF CASE, IT IS ESSENTIAL THAT  
EVERY POSSIBLE EFFORT BE MADE, INCLUDING EFFORTS BY OR IN  
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THE NAME OF THE AMBASSADOR, TO PERSUADE GOJ TO CONTINUE

EXTENDING DEPOSITION SO AS TO PERMIT ITS COMPLETION.

3. WITH REGARD TO THE EXTRAORDINARY EXPENSE GOJ IS INCURRING BECAUSE OF THE EXTENSIONS OF THIS DEPOSITION

(DESCRIBED REFTEL), JUSTICE DEPT IS PREPARED TO REIMBURSE GOJ FOR REASONABLE EXPENSES INCURRED IN CONNECTION WITH THESE EXTENSIONS (I.E. OVERTIME FOR GOJ OFFICIALS CAUSED BY EXTENSIONS) UP TO \$5,000.00 (FIVE THOUSAND DOLLARS) AND WILL CONSIDER FURTHER EXPENSES IF REQUIRED. JUSTICE DEPT FISCAL DATA FOR THIS IS: APPROPRIATION NO. 1550322; FUND CODE 5E140-11.

4. IT IS UNDERSTOOD THAT THESE EXTENSIONS ARE VERY INCONVENIENT AND DIFFICULT FOR ALL CONCERNED, BUT, AS NO DANGEROUS ACTIVITY HAS BEEN ENGAGED IN BY THE DEFENDANTS, REIMBURSEMENT OF THESE EXTRAORDINARY EXPENSES WILL PERHAPS HELP PERSUADE GOJ TO PERMIT CONTINUATION OF DEPOSITION. HOPEFULLY EXTENSION WILL BE GRANTED SO AS TO PERMIT CROSS-EXAMINATION SO AS TO ENSURE FAIRNESS TO ALL CONCERNED.

5. EMB, THEREFORE, REQUESTED TO DO EVERYTHING IN ITS POWER TO OBTAIN EXTENSION AND IS AUTHORIZED AT ITS DISCRETION TO INDICATE U.S. WILLINGNESS TO PROVIDE REIMBURSEMENT FOR ABOVE-DESCRIBED EXTRAORDINARY EXPENSE. EVEN THOUGH GOJ HAS TOTAL DISCRETION AND AUTHORITY, FAIRNESS AND IMPORT OF CASE REQUIRE THAT NO REASONABLE EFFORT SHOULD BE LEFT UNDONE THAT MAY PERSUADE GOJ TO ALLOW EXTENSION. INGERSOLL

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